UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,541	12/17/1999	DAN EHRING	18212-0011	1304

25696   7590   10/23/2002

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EXAMINER
POND, ROBERT M

ART UNIT	PAPER NUMBER
3625	

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.	Applicant(s)
Office Action Summary	09/466,541	EHRING ET AL.
	Examiner	**Art Unit**
	Robert M. Pond	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 July 2002</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-11</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-11</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: .

Response to Amendment

The Applicant amended Claim 2 and added Claims 4-11. All claims pending,

Claims 1-11 were examined and stand rejected in this non-final rejection.

Response to Arguments

Applicant's arguments with respect to Claim 1-11 have been considered but

are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be
> patented and the prior art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the art to which said subject
> matter pertains. Patentability shall not be negatived by the manner in which the invention was
> made.

1.   **Claims 1-11 are rejected under 35 USC 103(a) as being unpatentable**

over Cook, et al., patent number 6,201,948, in view of PR Newswire (PtO-

892 Item: U).

Cook et al. teach a system and method of NetSage of an agent-based

instruction system and method for interactive, adaptive, and individualized

computer-assisted instruction. Cook et al. teach a software agent that adapts to

each student by managing instruction that approximates a real tutor. Cook et al.

further teach accepting data on the methods of instruction adopted by particular

materials and on student performance in the instruction, accepting direct

interactions from the student as well as the history of previous student

performance stored in a student data object, accepting data on customization

and assignments from a teacher, accepting data from the school comprising data

on analysis of student body performance, and educational standards and criteria.

In the preferred embodiment, these inputs allow individualization of agent

interaction (please see at least abstract; col. 4, line 38 through col. 7, line 40).

Cook et al. further teach a) the use of applets as an executable program

fragment advantageously downloaded to a client across the computer network,

preferably the Internet over the World Wide Web, wherein the applet is used to

represent a complete element of on-screen agent actions (e.g. video, animation,

audio, text), b) implementation structures, c) system network, client hardware,

server environment, database management, and system security, d) the

instructional interface, e) the instructional design interface, f) software structures,

g) authoring tools and system tools, and h) student data objects (see at least col.

8, lines 56-65; col. 14, line 50 through col. 18, line 26; col. 18, line 27 through col.

49, line 4).

Cook et al. teach all the above as noted under the 103(a) rejection and further

teach the system and method of NetSage used as a virtual tutor in a school

environment but does not address other uses of agent-based instruction. PR

Newswire teaches NetSage debuting its Social Intelligence Server (SIS) V2.0

that manages social intelligence for e-commerce applications by delivering virtual

assistants to web sites and automated voice systems. PR Newswire teaches

NetSage demonstrating its technology by emulating a customer self-service

transaction through integrated web and voice-enabled telephone interfaces. The

demonstration features a virtual sales assistant enhancing the users shopping

experiences by eliciting shopping criteria, assisting with catalogue browsing, and

supporting the completion of the online transaction. PR Newswire teaches the

demonstration supporting voice inquiries and attempting to cross-sell items

based on interest expressed during the web transaction. PR Newswire further

teaches the SIS generating intelligent responses by interpreting previous user

behavior, analyzing user characteristics and current actions, and maintaining the

social data necessary to sustain personalized dialogs. PR Newswire further

teaches SIS supporting a) electronic and voice commerce applications to

increase purchases and boost customer retention, loyalty, and satisfaction, b)

customer self-service to reduce support costs and strengthen brand recognition,

and c) and web-based training where adaptive virtual mentors shepherd

beginners through every step of the learning process. Therefore it would have

been obvious to one or ordinary skill in the art at time of the invention to modify

the system and method of Cook et al. to apply agent-based instruction in e-

commerce and customer support scenarios as taught by PR Newswire, in order

to help potential customers become better educated on topics of interest to the

seller of goods or services, and thereby become more competent and willing to

make a purchasing decision.

Conclusion

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to **Mr. Robert M. Pond** whose telephone

number is 703-605-4253. The examiner can normally be reached Monday-

Friday, 8:30AM-5:30PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, **Ms. Wynn Coggins** can be reached on 703-308-1344.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the **Receptionist** whose telephone number is

703-308-1113.

Any response to this action should be mailed to:

> *Commissioner of Patents and Trademarks*
>
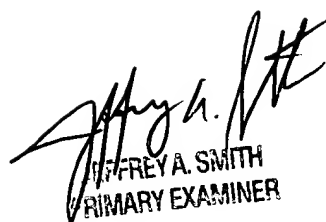> *Washington D.C. 20231*

or faxed to:

> **703-305-7687** (Official communications; including After Final
>
> communications labeled "Box AF")

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal

Drive, Arlington, VA, 7th floor receptionist.

RMP
October 21, 2002

JEFFREY A. SMITH
PRIMARY EXAMINER